

1 bathroom door or the door leading to the hallway?

2 A The front door --

3 Q Okay.

4 A -- that leads to the hallway. She went
5 in that door.

6 Q Okay.

7 A Because to enter his office she would
8 enter the office here, and the restroom is just to the
9 left.

10 Q Right. So my question is which door
11 would she leave ajar, or that she would leave open?

12 A The front door --

13 Q The front door. Okay.

14 A -- that's right on the hallway.

15 GRAND JUROR: Okay.

16 BY GRAND JUROR:

17 Q And I have one question. You said she
18 finished up in about ten minutes?

19 A That's correct, sir.

20 Q So that leaves the door open basically
21 from six o'clock to seven o'clock?

22 A Of course not, no. No, no, no, no, no.
23 She arrives at 5:45. She's done at 5:55. And she's
24 supposed to lock that door when she leaves when she's
25 done.

1 Q Are the door holders on all the doors or
2 just the front doors?

3 A There's -- good question.

4 Q The door props?

5 A Some places yes, and some places no. But
6 in this particular office I won't say one way or the
7 other because there's two side entrances. There's two
8 and one in the front.

9 Q This sort of gets down to scuttlebutt.
10 Is there in your observation or comments made by the
11 staff any kind of an office staff or judge who is known
12 to wander around, work late, have irregular hours to be
13 in the building at 2:00 in the morning doing his drafts
14 or whatever, is there any observation on your part that
15 would identify a lawyer or group of lawyers who are
16 known to be here after 5:30?

17 A Oh, yes, I see judges after 5:30 all the
18 time. Just about every day I see some judge.

19 Q When a shift is over in this building, do
20 they sort of report to the, I don't know, the custodial
21 area and keep little notes on a log, a running log,
22 like, attention to third floor, certain window has a
23 lot of leaks or bugs in this restroom, or what have
24 you, do you have a log like that kept that you could
25 refer to?

1 A This is reported to me if there's a
2 problem in any office. If you find an individual in
3 the office, this can be reported, should be reported.
4 And I've got a form at the end of the night that there
5 was a person working in whatever office number and the
6 time they were working in there.

7 So if there's a break, there's a restroom
8 with a problem, I will also record that. Whatever I
9 see that's out of the ordinary I must report it and
10 turn it into Facility Maintenance at the end of the
11 night.

12 GRAND JUROR: All right.

13 MR. HILL: Mr. Parks, we want to thank
14 you for being here. We would simply remind you
15 that anything that you've heard here or said
16 here has to remain here. That's what your oath
17 was all about.

18 THE WITNESS: I understand that. I
19 understand that real well.

20 MR. HILL: Thank you, sir.

21 (The witness left the Grand Jury room.)

22 MR. HILL: If you will stand by the
23 chair, Chip will get you sworn in.

24 THE WITNESS: Okay.

25 Whereupon,

1 T. MICHAEL FOSTER,
2 was called as a witness, and being duly sworn by Alfred
3 C. Thullbery, Jr., Assistant State Attorney, was
4 examined and testified as follows:

5 MR. THULLBERY: Have a seat.

6 DIRECT EXAMINATION

7 BY MR. HILL:

8 Q Good morning again.

9 A Morning.

10 Q State your full name for the record,
11 please, sir.

12 A Thomas Michael Foster.

13 Q Mr. Foster, I think the last time I got
14 to ask you questions was as a member of the Second DCA
15 Selection Committee.

16 A Yes, sir, that's correct.

17 Q Your name is now before the Governor
18 again, is it not?

19 A It is, uh-huh.

20 Q You are highly regarded. I think your
21 name has been up several times.

22 A Thank you. It has. I think this is the
23 sixth time.

24 Q We wish you well.

25 A Thank you. I appreciate it very much.

1 Q You obviously are here in a capacity that
2 may shed some light on an incident that you know we are
3 looking into.

4 A Yes, sir.

5 Q And I don't think it will take long, but
6 we just kind of need to run through it.

7 A That's all right.

8 Q July 27th of this year is the date in
9 question.

10 A Yes, sir.

11 Q The time is sometime after five o'clock.

12 A Yes.

13 Q Can you tell us what you were -- what
14 brought you to the courthouse, let's start with that --

15 A Okay.

16 Q -- and what time you arrived?

17 A Okay. I came down to the courthouse to
18 bring an Order to Judge Moody for his signature. I had
19 been up in Dade City at a deposition, got a call from
20 my secretary that the judge, I think it was the judge's
21 judicial assistant actually called, the judge wanted
22 the Order that afternoon.

23 He was waiting to receive the papers that
24 he needed to sign to become a Federal Judge. He was
25 trying to wrap up some pending work, and one of them

1 was the signing of an Order that I was responsible for
2 preparing.

3 I had not finished preparing it. I had
4 consulted with several other lawyers in the case to
5 make sure I got the wording right, hadn't finished it.
6 But this was I've forgotten what time in the afternoon,
7 but I hurried back as soon as the deposition was over
8 and put the Order together.

9 So, by the time I actually arrived at the
10 courthouse, it was probably five until 5:00 or right at
11 5:00 when I got upstairs here. I don't remember
12 looking at the clock, if there was one, in the judge's
13 waiting area.

14 But when I arrived, I tried the door. It
15 was shut and it was locked. So I knocked. No one
16 answered. And I thought, "Uh-oh, you know, I'm in
17 trouble now, but I'll have to bring it over first thing
18 in the morning."

19 And I really wasn't sure, I thought,
20 well, maybe there's still somebody back there. I'll
21 wait a minute and knock again. So I just sat down in
22 his waiting area and tried to decide what to do. While
23 I was sitting there, Judge Bonanno came in.

24 Q Can you give us an estimate of the time,
25 how long you had sat there?

1 A I hadn't sat there more than a minute or
2 two really. I had just, you know, begun to try to plan
3 what my next move was, whether I could see if I could
4 find a bailiff or just wait until the next day.

5 So he came in. And my best recollection
6 is that at that point he had papers in his hand. I
7 think actually what he did, while I was sitting there
8 he asked me, "What are you doing?" And I told him I
9 was waiting -- I was trying to get in to see the judge
10 waiting to figure out what I could do, whether I could
11 get in.

12 I believe that he put a paper into the
13 basket that's on, it was then Judge Whittemore, on
14 Judge Whittemore's door. Maybe it was Judge Barton,
15 but at any rate, that door which is opposite Judge
16 Moody's door.

17 And he said -- and I told him I needed to
18 get in to see Judge Moody. And he said, "Well, come on
19 with me," or words to that effect.

20 So we went out of the -- out of the
21 waiting room out into the hall down to the very end.
22 There is a door there that all of the J.A.s use that
23 has a combination lock instead of a key where they just
24 flip the tumblers and get access, and apparently
25 there's copying material, Xerox machine or whatever

1 else back there.

2 Q That leads into a room that is used for
3 the things you just described?

4 A Yes.

5 Q It's not part of the judges' chambers, is
6 it not?

7 A No. And I think it's commonly used by
8 all the J.A.s, and it's right at the very end of the
9 hallway. But there is a door off it. And we went in
10 through that door, and that gives you access into Judge
11 Moody's hearing room.

12 And the judge was there seated at the
13 table with a row of papers trying to get everything
14 wrapped up. And Judge Bonanno may have given him a
15 piece of paper at that point, too. I don't recall that
16 clearly right offhand, except I know that he had some
17 mission he was on with these papers.

18 And I -- and we talked very briefly, and
19 he explained to Judge Moody that I needed to see him.
20 And I, at that point, took up the conversation, and he
21 left. Judge Bonanno left.

22 And Judge Moody and I talked, and I told
23 him I had the Order, and that hopefully it was in the
24 form that he wanted it to be in. And we talked briefly
25 about his waiting to receive the commission, or

1 whatever the papers were called, that would end his
2 state court job and begin his federal court position.
3 He expected that maybe the next day or maybe over the
4 weekend, and so he was trying to get everything done.

5 MR. HILL: You have a question. If I can
6 get you all to hold them until we wrap this up,
7 we're going to make sure everything gets
8 answered.

9 BY MR. HILL (resuming):

10 Q Are you familiar with Judge Holder's
11 chambers?

12 A Yeah, more or less. I think I --

13 Q My question is this: Are Judge Moody's
14 chambers much the same layout as Judge Holder's, or is
15 there a difference?

16 A There's quite a difference, actually,
17 between the two rooms, yeah.

18 Q Again, I'm leading to this. If you went
19 up to those front doors of Judge Moody's chambers --

20 A Uh-huh.

21 Q -- or reception area, and the door is
22 locked and you knocked --

23 A Uh-huh.

24 Q -- would he have been able to hear you
25 back there where he was sitting and working?

1 A No, if I was knocking on the door that's
2 in the hallway that leads into his -- the waiting area
3 that is the common waiting area for both one judge on
4 this side of that area and the other judge on this side
5 of the area, I doubt -- if the doors were all closed he
6 would not have been able to hear me.

7 The door that I knocked on is -- you had
8 access to the waiting room, to the common waiting room.
9 Then I went to the door that would have been, would
10 have given me access to the J.A.'s station. Frankly,
11 if he had had the door to his chambers closed he still
12 might not have heard me. So it's hard to say. But, I
13 mean, that's a pretty --

14 Q Well, that's a major distinction right
15 there. Judge Holder doesn't have any common waiting
16 area, it's strictly for his chambers --

17 A Right, correct.

18 Q But this one is common.

19 A In Judge Holder's you literally, you walk
20 in the front door and you are looking directly into his
21 hearing room. His J.A. is seated to your left as you
22 enter, and then his office is off of the J.A.'s.

23 Q Right.

24 A But it's a smaller area than Judge
25 Moody's.

1 Q Got you. All right. So you walk in and
2 explain to him the reason you're there?

3 A Uh-huh.

4 Q And what occurs next?

5 A And Judge Moody and I talked for maybe
6 five minutes. I congratulated him again. I have known
7 him for a number of years and, of course, have worked
8 in front of him many years and just felt real good to
9 see him appointed to the federal bench and
10 congratulated him on that.

11 And then he walked me out to the regular
12 entrance to his office, opened the door that would have
13 provided access to the J.A. so I could exit back out
14 into the common waiting area, and I left.

15 And I started down the hallway. And as I
16 did, I was -- I had my cell phone with me and I was
17 wanting to call the people who were waiting to hear
18 whether I had submitted the Order, and also to check
19 with my office just to see if anybody had called me in
20 the meantime.

21 And the part where I am least clear,
22 well, number one, at this point it's after five
23 o'clock. And with all due respect to all who work at
24 the courthouse, at five o'clock in this courthouse you
25 could probably send a bowling ball from one end of the

1 hallway to the other and not hit anybody.

2 My recollection is that at the far end of
3 the hallway I saw Judge Bonanno probably down in the
4 area where at that point Judge Maye's office was at the
5 far end on one side, and at the other end I believe it
6 was Judge Pendino. I think I saw him in that general
7 area either coming out or going into one or the other
8 of the offices.

9 And my recollection is that maybe because
10 I saw him with them, I think he still had the papers,
11 but I'm not fully sure of that. But nevertheless,
12 that's -- I believe that's the point in time when I
13 first saw him down in that area.

14 I came down the escalator and I stopped,
15 this is now probably ten after, I stopped in the lobby
16 area on the second floor, which is, you know, a wide
17 open lobby area, sat down, and then I called. And I
18 spoke to the person that I needed to advise that I had
19 dropped off the Order, and was told that several of the
20 lawyers who had had my draft of the Order for about a
21 week hadn't bothered to look at it until I had already
22 taken it to the judge and now decided that they didn't
23 like the way it was worded, which irritated me, and I
24 started back up the escalator.

25 And I told this person I'm not sure I can

1 get the Order back, you know. Nevertheless, I went
2 back up, walking down the hallway still explaining that
3 I wasn't terribly happy with this and why didn't they
4 take the trouble to read it when I had had it there for
5 over a week.

6 I got down to the judge's office. Again
7 the door was locked. I knocked. This time he heard me
8 and he promptly answered the door. I apologized and
9 explained to him that apparently it wasn't the way
10 everybody wanted it, and that I would like to have it
11 back. And I promised him that I would deliver it in
12 his office first thing the next day. So, he very
13 graciously let me have it back.

14 I should point out that even after I did
15 submit it, he still re-wrote it. But nevertheless, I
16 did return it the next day.

17 But as I'm leaving, I have this in my
18 hand and I'm coming out the hallway, and at this point
19 I don't go back downstairs to call again, I just call
20 right there in the hallway and say, "Well, I have the
21 Order. Whoever has complaints about the wording of
22 this Order, please let me know right away because this
23 has to go back to the judge first thing in the
24 morning."

25 While I'm doing that, and I'm talking on

1 the phone as I'm walking toward the escalator, I see
2 Judge Bonanno coming toward me from the other side down
3 coming my direction from the other side of the
4 escalators. And he's probably halfway down the hall.
5 I can't tell you where in relation to any of the
6 offices he was, but he was about halfway down. There
7 are several judges' chambers, including Judge Holder's,
8 in that general area.

9 This can't be much more than about
10 somewhere around 5:20. And God knows my guesses on
11 time here are approximations within probably a
12 ten-minute time frame.

13 Q I understand.

14 A I wave and thank him again, and he
15 acknowledges somehow, probably with a wave. And I
16 start down the escalators and I leave. When I walk out
17 of the courthouse, it's a nice, bright, sunlit
18 afternoon. And I checked my watch because I've got to
19 go back by the office and see what's happening, and
20 it's probably 5:30 at that point.

21 Q Okay.

22 A And in the meantime, of course, I made
23 that phone call. So I didn't hurry out of the
24 courthouse. I probably stopped so I could listen,
25 because you get static when you walk too much.

1 Q And that was your total contact with
2 Judge Bonanno on that afternoon?

3 A That's correct.

4 Q I just want to see if I can make sure I
5 understand. He used -- well, he first entered into
6 through a combination door the first time you all
7 entered the door?

8 A Yes.

9 Q And from there you entered another door?

10 A Yes.

11 Q It required a key or a combination to do
12 that?

13 A You know, I don't know. I'm almost sure
14 it didn't require a combination. I don't know whether
15 it required a key or whether it was just one where you
16 turn the handle.

17 Q Nevertheless, once you were past that
18 second door, then you had access to Judge Moody's area?

19 A That's correct.

20 Q All right. Do you recall seeing any
21 other people in the courthouse during this time frame
22 that you have testified to? And I will tell you what
23 I'm asking about. Do you recall seeing any bailiffs?

24 A No, I really don't. And, you know, they
25 are such a common fixture that if I saw one it probably